with subsequent conduct of the parties (and without evidence of any specific agreement to *become* man and wife) is sound sense and sound law. See (1918) 27 YALE LAW JOURNAL, 702, commenting on *Schaffer v. Krestovnikow* (1917, N. J. Ch.) 102 Atl. 246, which the principal case affirms. A strong technical argument can be made on the other side. See (1916) 26 YALE LAW JOURNAL, 145. But the whole strength of the position that a second ceremony, though informal, must be shown, depends on a supposed necessity, to constitute common law marriage, of a conscious contract at some definite time to *enter upon* the relation. Though no language expressly so stating has been found, it is believed that the cases—the more modern cases particularly, cited in the comments indicated—can be interpreted to mean only that simple agreement to *be* husband and wife, such as continues practically throughout a normal marriage, is all that is necessary to constitute a common law marriage, and all that need be shown to prove one. *Cf.* note below.

MARRIAGE AND DIVORCE—FRAUD AND ANNULMENT—WIFE PREGNANT BY ANOTHER.—The plaintiff married the defendant because she represented that he had caused her to become pregnant. On discovery that another was the father of her child, he repudiated her and the child, and brought suit for annulment, although the woman had informed him before marriage that she had had intercourse with another. *Held,* that the decree annulling the marriage was correct. *Gard v. Gard* (1918, Mich.) 169 N. W. 908.

The conflicting authorities on the precise question—on which the Michigan court had twice divided evenly without being able to render a decision—are well reviewed in the opinion. The principal case seems to present the sounder view, particularly where, as here, the plaintiff entered on the marriage with the single aim of in some measure straightening out what he was led to believe were the consequences of his own wrong. Fraud "in an essential" is settled to be ground for annulment. See (1916) 26 YALE LAW JOURNAL, 159. It seems to be admitted that such facts as those in the instant case involve an "essential." And neither the objection based on unclean hands, nor that based on notice enough to put the husband on inquiry, seems overly in point. For discussion of other aspects of annulment see E. W. Spencer, *Some Phases of Marriage Law* (1915) 25 YALE LAW JOURNAL, 58; and (1916) 25 *ibid.* 258, 326; (1917) 26 *ibid.* 506, 622; (1919) 28 *ibid.* 272.

MARRIAGE AND DIVORCE—SLAVE MARRIAGE—EFFECT OF EMANCIPATION.—In 1862 the decedent, a slave, "married" the plaintiff's mother, also a slave, with the consent of their masters, by a public joining of hands followed by a ball. The couple lived together as husband and wife before and after emancipation. Subsequently the decedent left his wife and married the defendant. The plaintiff brought suit *inter alia* to be recognized as the sole heir of the decedent. The defendant denied his legitimacy. *Held,* that the plaintiff was the heir of the decedent. *Wiley v. Bowman* (1918, La.) 80 So. 243.

Even to-day the status of slavery is coming before our courts, chiefly in questions involving inheritance and marriage. See (1914) 24 YALE LAW JOURNAL, 75, discussing *Jones v. Jones* (1914) 234 U. S. 615, 34 Sup. Ct. 937. A slave "marriage" did not in itself produce any of the civil consequences of marriage. But when entered on by the consent of the master and the moral assent of the slave, it did from the moment of freedom produce all those consequences, operating retroactively at least as regards the legitimation of children; but the "marriage" must have existed at the moment of freedom. It thus appears

that for those at least whose original marrying was ineffective because of the impediment of slavery, Louisiana recognizes something very like the form of common law marriage presented in the note above.

MUNICIPAL CORPORATIONS—LIABILITY FOR NEGLIGENCE—MINISTERIAL AND GOVERNMENTAL ACTS.—The plaintiff's intestate was killed when the automobile which she was driving was struck by the city's police automobile which was being operated negligently while conveying policemen to their beats. *Held,* that the city was liable, as such use was "ministerial and corporate," and not governmental. *Jones v. Sioux City et al.* (1919, Iowa) 170 N. W. 445.

This decision is an interesting illustration of the tendency to extend the principle that a municipality is liable for the negligence of its police officers when engaged in matters connected with the corporate affairs but bearing no true relationship to the enforcement of law. (1899, N. Y.) 37 App. Div. 307, 55 N. Y. Supp. 850. Cases determined under this rule are not numerous. Ordinarily, where it is sought to hold the municipality liable for the negligence of its police officers the decision goes on the ground either that the policeman was in the performance of a governmental duty or that he was acting in wilful violation of the law; in both of which cases the city is exempt from liability. *Calwell v. City of Boone* (1879) 51 Iowa, 687, 2 N. W. 614; *Maximilian v. Mayor* (1875) 62 N. Y. 17; *Odell v. Schroeder* (1871) 58 Ill. 353. But though the city is exempt, the officer or his superior may be liable personally. Where a fire commissioner permitted a fireman driver to operate an automobile at excessive speed while driving the commissioner to inspect some new fire houses, the commissioner was held personally responsible, the city ordinance not exempting officers and men from the speed regulations unless proceeding to a fire or responding to an emergency call. *Dowler v. Johnson* (1918, N. Y.) 121 N. E. 487.

NUISANCES—NEGRO RESIDENTIAL COLONY.—The defendant was a corporation chartered for the purpose of furnishing instruction in the higher branches of learning to members of the negro race. It acquired seventy acres of land adjoining the plaintiff's premises; and not needing the whole tract for the college proper, proposed to establish a residence colony of negroes upon part of it. The plaintiff sued for an injunction, claiming that this use of the College's property was *ultra vires. Held,* that the plaintiff was not entitled to relief, as no individual has power to attack the act of a corporation as *ultra vires;* and as the proposed colony was not a public nuisance which the plaintiff, as suffering special damage, might enjoin. *Diggs v. Morgan College* (1918, Md.) 105 Atl. 157.

The case presents an interesting corollary to the unconstitutionality of the segregation ordinances as pronounced by the Supreme Court in *Buchanan v. Warley* (1917) 245 U. S. 60, 38 Sup. Ct. 16, L. R. A. 1918C 210, Ann. Cas. 1918A 1201, discussed (1918) 27 YALE LAW JOURNAL, 393. "Whatever view may have been entertained formerly, since the decision in" that case "it is clear that the improvement of land as a colored residential neighborhood is not of itself a public nuisance. It may or may not become such, according to the way in which . . . it is conducted." An illustration of the way in which the conducting might become a nuisance may be found in *Giles v. Rawlings* (1918, Ga.) 97 S. E. 521.

TAXATION—INHERITANCE TAXES—DEDUCTION OF FEDERAL ESTATE TAX BEFORE COMPUTING STATE INHERITANCE TAX.—The estate of a Pennsylvania testator